

DETAILED ACTION

This Office Action is in response to the amendment filed 09/10/2009. No new claims have been added.

Applicant's arguments filed 09/10/2009 have been fully considered. Rejections and/or objections not reiterated from previous Office Actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set of rejections and/or objections presently being applied to the instant application.

Claim Rejections - 35 USC § 103

Claims 7 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Haasmaa et al. (US 2003/0032254) in view of Ohwada et al. (J. Appl. Glycosci., 2003).

Applicant argues that Haasmaa et al. contains a starch, a plasticizer, water and a dispersion admixture, while the instant composition does not require a dispersion admixture.

The Examiner disagrees.

Claim 7 is drawn to a composition "comprising" a starch, a plasticizer and water. The word "comprises" creates a claim that is open-ended. Therefore, the composition

of the instant invention contemplates additional components or ingredients.

Accordingly, the composition of Haasmaa et al. for preparing cast films reads on the instant invention which is "comprised" of a starch, a plasticizer and water components.

Applicant argues that the dispersion of Haasmaa et al. is prepared by admixing a starch ester with a plasticizer, whereas the instant invention is prepared by performing the mixing of components in a specific order.

The Examiner disagrees.

The claims under examination, i.e. 7-9 and 13, are drawn to a composition and not to a method of preparing said composition. Therefore, the method of manufacture does not hold patentable weight.

Applicant argues that Ohwada et al. does not remedy the deficiencies of Haasmaa et al.

The Examiner disagrees.

As cited in the Non-final office action, Haasmaa et al. teaches that the starch component may be based on any native starch having an amylose content of 0 to 100%, see page 2. Since the prior art of Ohwada et al. teaches that mungbean starch has an amylose content of 19.5 to 28.8%, it provides adequate motivation for combining with Haasmaa et al., see page 3.

Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Haasmaa et al. and Ohwada et al. as applied to claims 7 and 8 above, and further in view of Scott et al. (US 6,635,275).

Applicant argues that Scott et al. does not remedy the deficiencies of Haasmaa et al.

The Examiner disagrees.

The Examiner's responses to the arguments concerning the combination of Haasmaa et al. and Ohwada et al. are provided above. Scott et al. is only required to provide motivation for combining with the Haasmaa et al. and Ohwada et al. prior art. Since Scott et al. teaches plasticizers which are combined with starches for the production of hard and soft capsules, it provides adequate motivation for combining with the prior art of Haasmaa et al. and Ohwada et al., see page 4 and 5 of Non-final office action.

Claim 13 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Haasmaa et al. and Ohwada et al. as applied to claims 7 and 8 above, and further in view of Wittwer et al. (US 4,738,724).

Applicant argues that Wittwer et al. does not remedy the deficiencies of Haasmaa et al.

The Examiner disagrees.

The Examiner's responses to the arguments concerning the combination of Haasmaa et al. and Ohwada et al. are provided above. Wittwer et al. is only required to provide motivation for combining with the Haasmaa et al. and Ohwada et al. prior art. Since Wittwer et al. teaches methods of preparing hard capsules from casts films it

provides adequate motivation for combining with the prior art of Haasmaa et al. and Ohwada et al., see page 5 and 6 of Non-final office action.

No claims are allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darryl C. Sutton whose telephone number is (571)270-3286. The examiner can normally be reached on M-Th from 7:30AM to 5:00PM EST or on Fr from 7:30AM to 4:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Krass, can be reached at (571)272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Darryl C Sutton/
Examiner, Art Unit 1612

/Frederick Krass/
Supervisory Patent Examiner, Art Unit 1612